

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

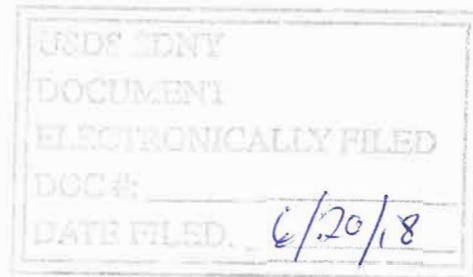
AMANDA MUSTARD,

Plaintiff,

-v-

DIGG, INC.,

Defendant.

No. 18-cv-2169 (RJS)
DEFAULT JUDGMENTRICHARD J. SULLIVAN, District Judge:

On March 12, 2018, Plaintiff commenced this action by filing a complaint against Defendant, alleging that Defendant violated Section 501 of the Copyright Act by reproducing her photograph on its website without her authorization. (Doc. No. 1); *see* 17 U.S.C. §§ 106, 501. Plaintiff served the complaint on Defendant on March 16, 2018 (Doc. No. 7), and, accordingly, Defendant's answer to the complaint was due on April 6, 2018. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). When Defendant failed to answer the complaint, the Court issued an order directing Defendant to show cause why a default judgment should not be entered against it. (Doc. No. 11.) On May 17, 2018, the Court held a hearing on Plaintiff's motion for a default judgment, at which Defendant failed to appear. Given Defendant's failure to (1) answer or otherwise respond to the complaint, (2) respond to the Court's order to show cause, or (3) appear at the May 17, 2018 hearing, the Court stated on the record at the hearing that it would enter a default judgment against Defendant with respect to liability. With respect to damages, however, the Court granted Plaintiff leave to make supplement submissions justifying her request for actual damages, ordered Plaintiff to serve Defendant with a copy of those supplemental submissions by May 31, 2018, and ordered Defendant to respond by June 7, 2018. (Doc. No. 42.) Plaintiff filed her supplemental submissions on May 31, 2018 (Doc. No. 22) and served Defendant with a copy of those submissions and the Court's May 18, 2018 Order that same day (Doc. No. 23). As of the date of this order, Defendant has not responded to Plaintiff's request for damages.

For the reasons stated on the record at the May 17, 2018 hearing, and as set forth in Plaintiff's pleadings, briefs, declarations and other materials submitted in this action, the Court makes the following findings:

- Defendant failed to plead or otherwise defend this action.
- Defendant violated the Copyright Act, 17 U.S.C. § 501.
- Plaintiff is entitled to actual damages in the amount of \$1,063.00, based on an estimate of the licensing fee Defendant would have had to pay to run her photograph. (See Doc. No. 22-1.) However, Plaintiff has not articulated a sufficient basis for her other requested actual damages.
- Plaintiff is also entitled to the costs of litigation, including: (1) the District Court filing fee of \$400; and (2) service costs of \$105.60. However, the Court denies Plaintiff's request for \$55 for copyright registration, which is not a cost of litigation.

Accordingly, IT IS HEREBY ORDERED THAT judgment is entered in favor of Plaintiff and against Defendant in the amount of \$1,063.00 in actual damages and \$505.60 in costs, for a total judgment of \$1,568.60.

IT IS FURTHER ORDERED THAT the Court shall retain jurisdiction over the parties and the subject matter of this litigation for the purposes of interpreting and enforcing this Order. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 379 (1994).

The Clerk of Court is respectfully directed to terminate the motion pending at docket number 15 and to close this case.

SO ORDERED.

Dated: June 20, 2018
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE